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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/051,200	01/17/2002	Stephen T. Garelli	MAC - 206	7246

7590

09/25/2003

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EXAMINER

LUK, EMMANUEL S

ART UNIT

PAPER NUMBER

1722

DATE MAILED: 09/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/051,200	Applicant(s) GARELLI, STEPHEN T.	
	Examiner Emmanuel S. Luk	Art Unit 1722	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 January 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) 1 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
 If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claim 1, drawn to a mold apparatus, classified in class 425, subclass 437.
 - II. Claims 2-7, drawn to a method of molding, classified in class 264, subclass 572.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions Group II and I are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the apparatus as claimed can be used to practice another and materially different process such as injecting gas into the mold cavity before the sold molded product is formed thereby forming a hollow molded product.
3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.
4. During a telephone conversation with Robert McKellar on September 11, 2003, a provisional election was made without traverse to prosecute the invention of Group II, claims 2-7. Affirmation of this election must be made by applicant in replying to this Office action. Claim 1 is withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claims 2, 3 and 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Milner (2304190) in view of Cole (4541795).

Milner teaches the claimed process having an apparatus with an upper mold (14), lower mold (15), a moveable core (24), having a top surface (30) and bottom surface and centered opening (28), each mold segment mating with the other mold segment at their respective confronting flat surfaces (Fig. 1), the mold segments having the concavity running through and exiting through their respective surface (Fig. 1). The moveable core having an outside configuration identical to the concavities of the mold segments (Fig. 1), the core having a stem (23), an air valve (30) operates to control the air flowing through passages (23a, 26a). Milner teaches the mold being clamped together (Col. 3, lines 18-27), material forms the product around the core in the mold

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and is cured (Col. 1, lines 9-23), gas is used to release the product from the core (Col. 2, lines 3-6).

Milner fails to teach liquid injected via upper mold opening and texturing of the product by the surfaces.

Cole teaches an injection molding apparatus having a mold cavity (101), where material is injected into the mold via channel (133) through the upper mold (103). Air is injected to the lower mold via channel (191) for ejection of the product from the cavity.

It would have been obvious to one of ordinary skill in the art to modify Milner with material injected through an upper mold opening as taught by Cole because it allows for injection molding in the cavity.

In regards to the texturing by the surfaces, any shape on the surface would provide a texture on the product. Thus, one of ordinary skill in the art would recognize any non-smooth surfaces would provide a texture ranging from a designed pattern to unintentional rough surfaces from the mold surfaces.

8. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Milner (2304190) in view of Cole (4541795) as applied to claims 2, 3 and 5-7 above, and further in view of Takahashi (5089201).

Milner fails to teach making the product from curable silicone materials.

Takahashi teaches an injection method that utilizes silicone material that is injected for curing (Col. 3, lines 26-36), the silicone material is used for its material property and being able to shaped from its liquid state prior to curing.

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It would have been obvious to one of ordinary skill in the art to modify Milner with forming the product from curable silicone material as taught by Takahashi because it allows for the production of a molded product made from silicone.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Anderson, Johnson, Seeger and Holmes.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Emmanuel S. Luk whose telephone number is (703) 305-1558. The examiner can normally be reached on Monday through Friday 8 to 4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda L. Walker can be reached on (703) 308-0457. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0651.

E.L.


W. L. WALKER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700